IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 24902 of 2005
With
CIVIL APPLICATION No. 10284 of 2006

For Approval and Signature:

HONOURABLE MR. JUSTICE B.J.SHETHNA

HONOURABLE MR.JUSTICE H.B.ANTANI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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UNION OF INDIA THR' GENERAL MANAGER & 1 - Petitioner(s)
Versus
BHANU MEPA - Respondent(s)

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Appearance :
MS MEGHA JANI for Petitioner(s) : 1 - 2.
RULE SERVED for Respondent(s) : 1,
MR PH PATHAK for Respondent(s) : 1,

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CORAM : HONOURABLE MR. JUSTICE B.J.SHETHNA

and

HONOURABLE MR.JUSTICE H.B.ANTANI

Date : 12/02/2007

ORAL JUDGMENT

(Per : HONOURABLE MR. JUSTICE B.J.SHETHNA)

1. The petitioners – Union of India and others have challenged in this petition the impugned judgment and order (Annexure-A) dated 10.12.2004 passed by the Central Administrative Tribunal, Ahmedabad Bench at Ahmedabad (for short “Tribunal”) in O.A. No. 23/2004 as well as subsequent order dated 6.6.2005 passed by the learned Tribunal in Review Application No. 20/2005 in O.A. No. 23/2004.

2. Ms. Jani for the petitioners submitted that respondent – original applicant worked as Casual Labourer, in all, for 343 days from 13.8.1976 to 19.8.1982 during the period of more than 6 years. In August 1982, he was found medically unfit for B-1 category. Thereafter, for the first time, he approached the learned Tribunal in 1994 by filing O.A., wherein, the learned Tribunal directed the original applicant to make representation by its order dated 1.8.1995. There was a delay in filing the representation, which could be filed only on 20.3.1998 by the applicant. The same was rejected by the Authority on 6/11.5.1998. Thereafter, he filed O.A. No. 864/1998 challenging the decision of the Authority, which was partly allowed on 21.2.2000. Lastly, he filed O.A. No. 23/2004 which was disposed of by the learned Tribunal with a direction to the present petitioners to place the case of the original applicant for screening before the Screening

Committee, if not placed so far, and on the Screening Committee recommending him for alternative category under the relaxed medical standard to consider giving him alternative employment as casual labour as per his turn in the list of medical de-categorized casual labourer. The same is challenged in this petition by the present petitioners under Article 226 and 227 of the Constitution.

3. Having heard learned counsel Ms. Jani for the petitioners and Shri PH Pathak for the original applicant, we are of the considered opinion that no interference is called for in the present petition.

4. It may be stated that when earlier O.A. 864/1998 was decided by the learned Tribunal on 21.2.2000 with a direction to the present petitioners to consider the original application for alternative category in accordance with rules and instructions issued by the Railway Board, the said order was challenged by the petitioners before this Court by way of writ petition which was dismissed. Once the said petition was dismissed and that order has become final, then, there was no option for the petitioners but to comply with the same. In fact, while allowing O.A. No. 864/1998 the prayer of the original applicant to grant back-wages was specifically rejected by the learned Tribunal. Thus, only thing which was required to be done by the petitioners was to consider the case of the original applicant for alternative category. In such type of cases, there is no question

of interference by this Court.

5. Though the petition is labelled both, under Articles 226 and 227 of the Constitution, strictly speaking, it is a petition under Article 227 of the Constitution, the scope of which is very narrow and limited. Unless there is jurisdictional error, this court would not interfere either on facts or law committed by the authority.

6. In view of the above discussion, this petition fails and is hereby dismissed. Rule is discharged. Interim relief granted earlier stands vacated.

7. As the main petition is dismissed, Civil Application No. 10284/2006 for vacating the interim relief filed by the original applicant is also disposed of accordingly.

(B.J. SHETHNA, J.)

(H.B. ANTANI, J.)

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